

Remarks

Claims 1, 5, 6 and 10-16 remain in this application. Claims 2-4, 7-9, and 17-83 were previously canceled. Claim 1 is amended to state that (A) is a hydrated protein stabilizing agent consisting essentially of a high methoxyl pectin.

Rejection Under 35 USC §102

Claims 1, 5, 6 and 10-16 are rejected under 35 USC §102(e) as being anticipated by Huang (US Patent No. 6,887,508).

Huang relates to a protein stabilizing agent for stabilizing a protein suspension in an aqueous acidic liquid such as a juice. The Huang protein stabilizing agent is comprised of a high methoxyl pectin and a propylene glycol alginate. However, the present invention, as amended, claims a hydrated protein stabilizing agent consisting essentially of a high methoxyl pectin. The propylene glycol alginate of Huang is excluded from the present invention.

As stated in M.P.E.P. §2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. The protein stabilizing agent of Huang is comprised of a high methoxyl pectin and a propylene glycol alginate. In present claim 1, as amended, the hydrated protein stabilizing agent consists essentially of a high methoxyl pectin. Huang fails to disclose each and every limitation of amended claim 1. As such, claims 1, 5, 6 and 10-16 are novel over Huang. Reconsideration and withdrawal of this ground of rejection is respectfully requested

Rejection Under 35 USC §103(a)

Claims 1, 5, 6, and 10-16 are rejected under 35 USC §103(a) as being unpatentable over Huang taken together with either Hoer et al. or Payne et al.

Huang, discussed above, is not a viable reference because the Huang protein stabilizing agent is comprised of a high methoxyl pectin and a propylene glycol alginate. However, the present invention, as amended, claims a hydrated protein stabilizing agent consisting essentially of a high methoxyl pectin. The propylene glycol alginate of Huang is excluded from the present invention.

Since Huang is removed as a reference by virtue of the amendment, the rejection is now rendered moot.

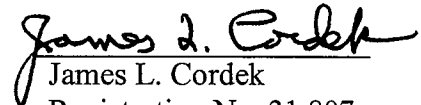
In order for the Office to show a *prima facie* case of obviousness, M.P.E.P. §2143 requires that the Office must meet three criteria: (1) the prior art reference must teach or suggest all of the claim limitations; (2) there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference, and (3) there must be some reasonable expectation of success. The Office has clearly failed to meet its burden under (1) and/or (2) above, since Huang is removed by virtue of the amendment to claim 1. Huang taken together with either Hoer et al. or Payne et al. fail to teach or suggest all of the claim limitations of Applicant's claim 1, as amended and further there is no motivation by one of ordinary skill in the art for combining Huang with either Hoer et al. or Payne et al. Reconsideration and withdrawal of this ground of rejection is respectfully requested.

For the foregoing reasons, it is submitted that the present claims are in condition for allowance. The foregoing remarks are believed to be a full and complete response to the outstanding office action. Therefore favorable reconsideration and allowance are respectfully requested. If for any reason the Examiner believes a telephone conference would expedite the prosecution of this application, it is respectfully requested that he call Applicant's representative at 314.659.3218.

If any additional fees are due in connection with the filing of this document, the Commissioner is authorized to charge those fees to our Deposit Account No. 50-0421.

Date: December 6, 2007

Respectfully submitted,
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